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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,219

07/12/2004

Hiroaki Kimura

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32294

7590

12/07/2006

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EXAMINER

NGUYEN, HUNG T

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/501,219

Applicant(s)

KIMURA ET AL.

Examiner

HUNG T. NGUYEN

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 1-5, 13-34, 40-50 and 52-58 is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☒ Claim(s) 6-12, 35-39 and 51 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/12/2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Specification***

1. The abstract of the disclosure is objected to because it contains more than 150 words. Correction is required. See MPEP § 608.01(b).

2. In the drawings.

Figures 14 & 16 are objected, they are conventional as disclosed in the specification. Therefore, applicant must label them as --Prior Art-- on the top of each drawing and resubmit.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 & 6, recite the limitations "the size" in line 7. There are insufficient antecedent basis for these limitation in the claims.

"the size" will be changed to --a size-- before "of the occupant;

Regarding claims 4, 9 & 18, please spell out term "SWM";

Regarding claim 6 is objected because the claim limitations are NOT clear & unacceptable as "a second sensor", "a second determination section", "a second calculating device" without reciting the previous sensor means, previous determination means, previous calculating means. For example, if a "third sensor means" was cited "first and second sensor" must also be recited.

Regarding claim 13, recites the limitation "the size" in line 10. There is insufficient antecedent basis for this limitation in the claims.

"the size" will be changed to --a size-- before "of the occupant;

Regarding claims 31 & 35, recite the limitations "the size" in line 6. There are insufficient antecedent basis for these limitation in the claims.

"the size" will be changed to --a size-- before "of the occupant;

Regarding claim 35 is objected because the claim limitations are NOT clear & unacceptable as "a second sensor", "a second determination section", "a second detecting step", "a second size calculating step", "a second determination step" without reciting the previous sensor means, previous determination means, previous detecting

means. For example, if a "third sensor means" was cited "first and second sensor" must also be recited.

5. Because of that claims 6-12, 35-39 & 51 are objected and NOT considered for examination at this time UNTIL applicants correct & amend them.

### ***Allowable Subject Matter***

6. Claims 1-5, 13-34, 40-50 & 52-58 are allowed if applicant correct minor things as disclosed above.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Oka et al. (U.S. 6,556,137).
- Saitou et al. (U.S. 6,559,555).
- Stanley et al. (U.S. 6,825,765).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung T. Nguyen whose telephone number is (571) 272-


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2982. The examiner can normally be reached on Monday to Friday from 9:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Horabik, Michael can be reached on (571) 272-3068. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

**HUNG NGUYEN  
PRIMARY EXAMINER**



Examiner: Hung T. Nguyen

Date: Dec. 1, 2006